IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5085 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BALAJI TRANSPORT LINES

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 5085 of 2002

MS SM AHUJA for Petitioner No. 1

MS HANSA PUNANI, AGP for Respondent No. 1-4

CORAM : HON'BLE MR.JUSTICE C.K.BUCH

Date of decision: 03/12/2003

ORAL JUDGEMENT

1. Rule. Service of Rule is waived by ld. AGP Ms. Punani for the respondents. By consent of ld. counsel appearing for the parties, this petition is taken up for

final hearing today,

2. By invoking jurisdiction of this Court under Article 226 of the Constitution of India, the petitioner has challenged the order dated 31.3.1999 passed by respondent No.2 Deputy Collector, Stamp Duty Valuation Organization, Ahmedabad as well as the order dated 17.11.1999 passed by respondent no.4 The Chief Controlling Revenue Authority, Ahmedabad confirming the order passed by respondent no.2 Deputy Collector.

3. Ms. Ahuja, ld. counsel appearing for the petitioner has taken me through the contentions raised in the petition. It has been submitted that for three properties held by the petitioner situated in the very same area, different three notices under Sec.32-A of the Bombay Stamp Act were issued to the petitioner and written replies were also submitted by the petitioner. However, all the three matters were heard together and therefore, replies filed were tagged in the proceeding in respect of the third property held by the petitioner which is still pending for adjudication before the respondent no.2. The grievance of the petitioner is that for one property situated in that very particular area, stamp duty has been evaluated by the Deputy Collector at Rs.97210/ which has been substantially reduced to Rs.10,270/. The grievance of the petitioner is that he is able to bring to the notice of ld.Deputy Collector, but as on the date of hearing, the petitioner was not present, the impugned order dated 31.3.1999 came to be passed. Said order was challenged by filing appeal under sec.32-A of the Act before respondent no.4, however, said appeal also came to be dismissed vide impugned order dated 17.11.1999 on the grounds stated in para-6 of the said order.

4. According to Ms. Ahuja, the proceedings qua third property situated in the very same area wherein written submissions are made, the said proceedings are still pending before the ld. Deputy Collector and, therefore, if the petitioner is offered an opportunity to appear afresh before the ld. Deputy Collector, he would be able to bring on record all relevant documentary evidence. She, therefore, requested to remand the matter to the respondent no.2 for fresh adjudication.

5. Say of ld. AGP Ms. Hansa Punani is that there was no formal resistance by the present petitioner and if written reply filed by the petitioner is wrongly tagged with any other proceedings, then the authority concerned can be asked to appreciate the say of the petitioner afresh.

6. In view of above, without going into the merits of the other contentions raised in this petition, the Court is inclined to remand the matter. Hence, impugned

order dated 31.3.1999 passed by respondent no.2 as well as impugned order dated 17.11.1999 passed by respondent no.4 are hereby quashed and set aside and the matter is remanded to the ld. Deputy Collector for adjudication the same afresh and de novo. That on remand, Ld. Deputy shall afford an opportunity of hearing to the petitioner and hear and decide the dispute raised in the notice issued under Sec.32-A of the Bombay Stamp Act afresh, in accordance with law and without being influenced with the impugned orders passed earlier as well as the observations made by this Court in this judgment.

7. Rule is made absolute accordingly. No costs. Direct Service is permitted.

[C.K. BUCH, J]

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